



Office of the Attorney General

State of Texas
April 23, 1993

DAN MORALES
ATTORNEY GENERAL

Ms. Laura S. Groce
Great Hills Plaza
9600 Great Hills Trail
Suite 300 West
Austin, Texas 78759-6303

OR93-206

Dear Ms. Groce:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19178.

The Judson Independent School District (the "school district"), which you represent, has received a request for information relating to its superintendent. Specifically, the requestor seeks "[a]ll evaluation reports made to the School Board of Trustees on or before Feb. 17, 1993, and the Board of Trustees individual personnel evaluation reports to add another year to Dr. Galen Elof's contract to continue as Superintendent."¹ You have submitted the requested information to us for review and claim that it is excepted from required public disclosure by section 3(a)(2) of the Open Records Act.

Section 3(a)(2) excepts from required public disclosure "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The court in *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.) found that section 3(a)(2) protects personnel file information only if its release would cause an invasion of privacy under the test articulated for section 3(a)(1) of the act by the Texas Supreme Court in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Generally, actions associated with a person's public employment do not constitute his private affairs. See Open Records Decision No. 470

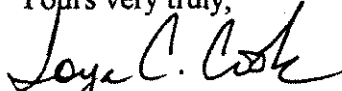
¹You understand the request to encompass only the superintendent's evaluation reports, but have nonetheless requested clarification from the requestor. Thus, until such time that the requestor indicates otherwise, we will interpret the request to encompass only the superintendent's evaluation reports and will limit our determination thereto.

(1987). Information about the qualifications of a public employee is of legitimate concern to the public. Open Records Decision No. 542 (1990). On numerous occasions, this office has held that the reasons for an employee's *resignation or termination* are not ordinarily excepted from required public disclosure by the doctrine of common-law privacy. *See, e.g.*, Open Records Decision Nos. 444 (1986) (reasons for employee's termination not excepted under doctrine of common-law privacy) (section 3(a)(2)); 329 (1982); 269 (1981) (documents relating to an employee's resignation may not be withheld under doctrine of common-law privacy) (section 3(a)(2)).

The records submitted to us for review document some of the reasons the school district's superintendent was retained in office. These records do not contain any information that is "intimate or embarrassing." Moreover, we conclude that the public has as much of a legitimate interest in knowing why a public employee was retained in office as in knowing why one was terminated. We conclude, therefore, that the requested information may not be withheld from required public disclosure under section 3(a)(2) of the Open Records Act and must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-206.

Yours very truly,



Toya C. Cook
Assistant Attorney General
Opinion Committee

TCC/GCK/le

Ref.: ID# 19178

cc: Mr. L. Richard Hammel
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